

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

MARLON CLARK,

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Plaintiff,

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V.

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WARDEN PAGE, WARDEN WILSON,
FNU AUSTIN, GRIEVANCE
COORDINATOR, BOWIE COUNTY
CORRECTIONAL CENTER; AND FNU
DORSEY, LAW LIBRARY SUPERVISOR,
BOWIE COUNTY CORRECTIONAL
CENTER;

CIVIL ACTION NO. 5:21-CV-00003-RWS

Defendants.

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (Docket No. 10), which contains her findings, conclusions and recommendations for the disposition of this matter. The Court hereby adopts the Report and Recommendation of the Magistrate Judge as the findings and conclusions of this Court. Plaintiff Marlon Clark, proceeding *pro se*, filed the above-titled civil action complaining of alleged violations of his constitutional rights. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636 and the applicable orders of this Court. Plaintiff was ordered to submit an inmate trust account and summary sheet by April 12, 2021. Plaintiff received this order on March 4, 2021, but he did not respond or comply. After Plaintiff failed to submit the inmate trust account and summary sheet, the Magistrate Judge issued a Report recommending the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 10.

A copy of the Report and Recommendation was mailed to Plaintiff at his last known address, and a return receipt was requested. The Report and Recommendation was returned as undeliverable, and no forwarding address was provided. Under the Local Rules of the Eastern District of Texas, *pro se* litigants must provide the court with a physical address and are “responsible for keeping the clerk advised in writing of the current physical address.” Local Rule CV-11(d). Plaintiff’s form complaint also contained the following declaration: “I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.” Docket No. 1 at 5. To date, Plaintiff has not updated his address with the Court, or otherwise notified the Court of his present whereabouts, and no objections to the Report and Recommendation have been filed.

Plaintiff is, therefore, barred from *de novo* review by the District Court of the Magistrate Judge’s findings, conclusions and recommendations; and, except upon grounds of plain error, Plaintiff is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *see also Arriaga v. Laxminarayan*, No. 4:21-CV-00203-RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021) (noting Plaintiff was not entitled to *de novo* review of the Magistrate Judge’s findings where Plaintiff did not acknowledge receipt of the Report and Recommendation or file any objections thereto).

The Court has reviewed the pleadings in this cause of action and the Report of the Magistrate Judge. Upon such review, the Court concludes that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (where no objections to a Magistrate Judge’s report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”), *cert. denied*, 492 U.S. 918 (1989). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 10) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-titled cause of action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further
ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED-AS-MOOT**.

So ORDERED and SIGNED this 26th day of April, 2022.

Robert W. Schroeder III
ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE